related facilities, thereby lessening the revenue shortfalls that IXCs incur in serving the Bush. This would, in turn, reduce the level of general Bush subsidy required. Also, this proposal is modeled on the federal RHCP program, which is now up and running successfully. Finally, it uses the AUSF as the repository of the funds and employs the AUSAC to collect and distribute them. The AUSAC is already in place and capable of administering the program with reasonable efficiency.

If nothing else, AT&T Alascom hopes that its analysis of the economics of private Internet service in the Bush will be useful to the Commission and to Lieutenant Governor Ulmer in their efforts to grapple with this issue. AT&T Alascom's numbers may require refinement. Other methods of computing and collecting the necessary subsidy may be developed, but at least the general magnitude of the problem and one feasible means of addressing it are provided in Mr. Vasconi's analysis.

D. THE RESALE MARKET WILL NOT BE IMPROVED BY GREATER REGULATION OF AT&T ALASCOM'S WHOLESALE TARIFF

The Vasconi Affidavit explains at length how AT&T Alascom's Wholesale Tariff came into being, how it was intended to work, how it has been subjected to repeated regulatory scrutiny, and why it is now time to abandon it and move to a better means of promoting resale. Using recently developed, forward-looking cost data, the Vasconi Affidavit demonstrates that the existing rates in the Wholesale Tariff are already too low for AT&T Alascom to recover all of its costs. Vasconi Affidavit, ¶ 61. Further regulation and greater unbundling will not solve the problems with the Wholesale Tariff.

Not having the benefit of this evidence, the Staff Report recommends that the Commission continue to regulate AT&T Alascom's and GCI's wholesale rates. Staff Report at 10. Staff reasons that "AT&T Alascom's failure to adjust its wholesale rates over the past several years (except for the

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recent 25% reduction), especially given the changes seen in retail rates, strongly suggests that there is limited effective competition for wholesale services and continued regulation is needed." *Id.* From this dubious premise, the Staff Report goes on to recommend that the Commission require AT&T Alascom and GCI to offer resellers unbundled network elements ***by technology***, despite the fact that the Telecommunications Act does not even require this degree of unbundling of monopoly LEC networks, much less competitive long distance networks. Staff Report at 15.

These recommendations reflect a basic misunderstanding of AT&T Alascom's Wholesale Tariff and the wholesale market. They fail to acknowledge that (1) resellers today have a fair and reasonable opportunity to compete in the long distance market through resale of deeply discounted calling plans, (2) AT&T Alascom has few customers for its wholesale services, and (3) AT&T Alascom's wholesale rates are already close to cost. For the reasons explained below, more regulation of AT&T Alascom's Wholesale Tariff would be costly and, frankly, provide no benefits to resellers or consumers. The better way to foster competition in the long distance resale market would be to allow competition to work unfettered by regulatory intervention and to encourage inter-carrier agreements and, where appropriate, resale of AT&T Alascom's discounted retail calling plans.

The Commission should reject the comments of Rural IXCs, like Unicom, that continue to demand unbundled wholesale tariffs from GCI and AT&T Alascom. By and large, these are affiliates of LECs that for many years have enjoyed a risk-free monopoly environment with a guaranteed rate of return and ample subsidies to cover all of their costs. When it became fashionable to diversify into other markets, these companies quickly created long distance affiliates, without a coherent business plan or any apparent consideration of the risks associated with a competitive business. They entered

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a highly competitive market with rapidly declining rates, driven primarily by competition in the state's urban areas. Nevertheless, these new companies (referred to in these comments as the Rural IXCs) have focused their businesses in the Category 3 areas where their affiliated LECs operate. Category 3 includes some of the highest cost, lowest density long distance markets on the planet. As explained above, AT&T Alascom loses money serving many of these areas. Undaunted, the Rural IXCs now expect AT&T Alascom to subsidize their Category 3 business plans by providing deep, below-cost discounts from already competitive retail rates. They also demand unbundled wholesale rates, which they are unequipped to use, at levels below AT&T Alascom's cost. Not surprisingly, AT&T Alascom is unwilling and unable to underwrite these enterprises.

1. The Staff Report's analysis of the wholesale market overlooks several important facts.

The Staff Report concludes that wholesale competition is lacking principally because AT&T Alascom does not adjust its wholesale rates as often as it adjusts its retail rates. Staff Report at 10. This conclusion is based on the faulty comparison Staff makes between changes in the wholesale and retail rates. The two rates fundamentally differ, as do their respective markets.

Under 3 AAC 52.375(e), wholesale rates are not geographically averaged.[7] AT&T Alascom's Wholesale Tariff, for example, provides rates for switching and transport services based on three different geographic zones in the state. Category 1 provides rates for wholesale services in high-density urban areas of the state. Category 2 provides rates for medium-density areas where the

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[7]In its Report, the Staff supports the continuation of the present rule permitting wholesale rates to be geographically deaveraged. Staff Report at 20.

Bush facilities-based restriction does not apply. And, Category 3 provides rates for low-density rural areas. Vasconi Affidavit, ¶¶ 41-43.

This pricing scheme makes sense for at least two good reasons. First, it sends the correct "build or buy" price signals to potential competitors. Second, it ensures that AT&T Alascom will not be required to sell its services below the actual cost of providing them in any given region. It also recognizes that the policy behind geographic averaging of retail rates – to promote universal service by keeping end user costs down in low-density, high-cost areas – has no application at the wholesale level. There is no national or statewide policy to subsidize rural resellers, nor should there be. In fact, the competition statute expressly encourages the development of ***facilities-based*** long distance service only. AS 42.05.800.

In contrast, 3 AAC 52.370(a) requires that retail rates be geographically averaged statewide, meaning that all routes of a particular distance are billed at the same rate, regardless of traffic density. While this tends to generate an implicit subsidy from low-cost, high-density regions to high-cost, low-density areas, it is legally authorized by state statute. *See* AS 42.05.840; AS 42.05.145. The Staff Report supports the continuation of this rule, as does AT&T Alascom. Staff Report at 23.

The fact is that wholesale and retail rates are fundamentally different from each other. The two rates are not comparable and should not be compared.[8] Any lack of a proportional relationship

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[8]Notwithstanding the fundamental mismatch between the deaveraged, cost-based wholesale rates and geographically-averaged statewide retail rates, the former APUC insisted that AT&T Alascom and GCI provide information showing that an "appropriate" relationship between the two rates exist. Order U-98-27(3) at 24. AT&T Alascom filed the requested information on June 28, 1999, including an analysis comparing Average Retail Rate Per Minutes with the Average Wholesale Rate Per Minute. This filing is still pending before the Commission in Docket U-98-27. The truth is (continued...)

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between reductions in wholesale rates and changes in retail rates does not mean that there is no competition at the wholesale level. Dissatisfied wholesale customers can turn to GCI as well as other network capacity providers, such as Alaska Fiber Star, KANAS. Vasconi Affidavit, ¶¶ 16-25. To meet market demands and remain competitive, AT&T Alascom recently reduced its wholesale rates by 25 percent. The Staff Report grudgingly mentions this reduction only in passing, as though it were insignificant. Staff Report at 10. AT&T Alascom's 25 percent wholesale rate reduction certainly is far greater than any reduction the LECs have offered on their access rates in the past nine years.

Nevertheless, there is minimal demand for service under AT&T Alascom's Wholesale Tariff. There are at least two explanations:

- Every competitive IXC in Alaska (except GCI and ANS) is non-facilities-based. They do not have switches or transmission facilities. The Wholesale Tariff was designed to accommodate a facilities-based carrier, like GCI, that had substantial facilities in Category 1 and some Category 2 areas, but needed to rely on AT&T Alascom's facilities to originate and terminate calls in the facilities-restricted Category 3 areas. Thus, demand for AT&T Alascom's wholesale services is limited because there are few wholesale customers equipped to buy it.

- The wholesale customer has to pay its own access charges, which are exorbitant in Alaska. Average access costs are approximately 13.3 cents per minute, by far the biggest cost component of a long distance call. If a reseller buys one of AT&T Alascom's discounted retail plans, it does not need to have its own facilities or pay its own access charges. For this reason, AT&T Alascom has been successful in selling its deeply discounted CustomNet plan to resellers, such as MTA Long Distance, King Salmon Communications, and others. Resellers purchase CustomNet service for an average of 16.6 cents per minute, barely covering access. Vasconi Affidavit, ¶ 55.

In essence, a reseller that buys a discounted retail plan benefits (perhaps unfairly) from geographic rate averaging and competitive pressures in the urban markets. As noted above, many of

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[8](...continued)
that there is no reasonable relationship between the two sets of rates and there never will be.

the resellers in Alaska are affiliates of rural LECs who wish to focus their business in Category 3 (*i.e.*, high-cost, low-density) areas. If they were to purchase network elements (bundled or unbundled) from the Wholesale Tariff, they would pay the high, unaveraged cost of providing service in Category 3, plus access. Unless AT&T Alascom is forced to sell its Category 3 service below cost, the wholesale rate in the Bush will *never* be lower than the current CustomNet rate, which is a product of competition and geographic rate averaging.

Surprisingly, the Staff Report failed to explain these facts to the Commission and seemed to accept uncritically the Rural IXCs' demands. The truth is that unbundling AT&T Alascom's Wholesale Tariff would be an expensive and time consuming exercise in futility. Unbundling will not lower AT&T Alascom's Category 3 costs, it will not help pure resellers, and, partly because of high access rates, it will never lead to wholesale rates lower than discounted retail rate plans.

2. Requiring a further unbundling of wholesale services would be pointless.

Claiming that the existing wholesale tariffs of AT&T Alascom and GCI are inadequate to meet resellers' needs, the Staff Report recommends that the Commission require a "reasonable degree" of wholesale rate unbundling and force AT&T Alascom and GCI to provide unbundled network elements by technology. Staff Report at 15.

Staff's recommendations overlook the fact that a further disaggregation of rates and services at the wholesale level will not produce better rates for resellers than those they can obtain by purchasing retail discount plans like CustomNet. As explained above, wholesale rates are deaveraged, based on the costs in different geographic zones. Therefore, wholesale rates for switching and

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transport in the high-cost rural areas predictably are and always will be more expensive than the geographically-averaged retail rates. Vasconi Affidavit, ¶¶ 54-55.

In view of this fact, the Staff Report's recommendation to require an unbundling of wholesale services by technology is pointless. Moreover, the current wholesale rates in all three categories may already be too low, as demonstrated by the data in the Vasconi Affidavit, ¶ 61. There is no evidence to suggest that a wholesale rate proceeding would produce better wholesale rates for resellers.

Further, the Rural IXCs generally have no satellites, earth stations, and other facilities to transport and switch long distance traffic. Why, therefore, do they want unbundled network elements? What purpose would be served by an expensive, time-consuming proceeding to unbundle network elements if what they really require is end-to-end service? The comments, as well as Staff's Report, filed in this docket do not adequately answer these questions. To date, no Rural IXC has ever asked for (and therefore has never been denied) an unbundled service from AT&T Alascom's Wholesale Tariff. If a Rural IXC installs facilities and thereafter needs or requests an unbundled service, this can be accommodated through a custom-tailored carrier agreement. There is no compelling reason to require a further unbundling in the tariff. Even the LECs are not required under the 1996 Telecommunications Act to file unbundled tariffs; they are only required to negotiate unbundled rates when there is a specific request. Additionally, Rural IXCs can always request joint use of AT&T Alascom's facilities and appeal to the Commission in the event of a dispute in accordance with AS 42.05.311-.321.

Even more unreasonable is the suggestion that rate elements should be separately priced based on technology type, *e.g.*, DAMA, analog satellite, terrestrial microwave, fiber optic, etc. It is hard

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enough to perform a cost study that separately prices each element of AT&T Alascom's network; it would be nearly impossible to price each element based on the type of technology used to carry a particular call. Not even the Telecommunications Act's mandate to LECs to unbundle the monopolistic networks goes that far. To AT&T Alascom's knowledge, LECs' wholesale rates do not vary based on technology type. Transport on fiber optic cable costs no more or less than transport on copper cable, for example.

In summary, greater unbundling of services by technology in the Wholesale Tariff would result in a time-consuming, costly, yet wasteful exercise given the favorable rates resellers can purchase in the retail market. There is no compelling reason to require an unbundling of wholesale services.

3. The long distance resale market would be better served with less regulation, not more.

Today, resellers have many more opportunities and options to purchase long distance services and network capacity than existed in 1991 when competition first commenced. There is fierce competition between and among AT&T Alascom and GCI and other network providers like Alaska Fiber Star to carry intrastate traffic. There simply is no need for regulation of wholesale rates and services in this competitive market.

To the best of AT&T Alascom's knowledge, no commission in the nation has sought to promote competition in the long distance resale market by requiring facilities-based IXCs to provide wholesale services. The long distance resale market can and will flourish as a result of the opportunities resellers have to purchase long distance services through inter-carrier agreements and from discounted retail plans, not wholesale tariffs. Kargoll Affidavit, ¶¶ 15-16.

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In sum, AT&T Alascom urges the Commission not to adopt the proposed amendments to 3 AAC 52.375(b) and 3 AAC 52.375(c), which would require both dominant and non-dominant facilities-based IXCs to include unbundled rate elements in their wholesale tariffs.[9] Instead, the Commission should strengthen and support inter-carrier agreements and retail discount plans to promote competition in the long distance resale market. This strategy has worked well in the Lower 48 where the long distance resale market is flourishing. It can work well here too, although Rural IXCs that focus their business in Category 3 admittedly will have difficulty in making a profit. Their ability to make a profit in any given market segment is, however, irrelevant. The Rural IXCs are not entitled to a guarantee that they will make money in the highest cost, lowest volume segment of a highly-competitive statewide market.

E. WHOLESALE RATES SHOULD BE COST-BASED AND NOT GEOGRAPHICALLY AVERAGED

If the Wholesale Tariff is not abolished altogether, the Staff Report's recommendation is that the Commission not require wholesale rates to be geographically averaged. The present regulation, 3 AAC 52.375(e), states that wholesale rates do not have to be geographically averaged. This makes perfect sense. Unlike geographically-averaged retail rates that are designed for social and policy reasons to provide implicit subsidies to rural consumers, geographically-averaged wholesale rates would provide implicit subsidies only to competing IXCs. Deaveraged rates would not directly benefit

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[9] The recommendation not to adopt the proposed amendment should not be misunderstood to be an endorsement in any way of the dominant/non-dominant carrier distinctions set forth in these regulations. For the reasons discussed below, AT&T Alascom of course believes that any form of dominant carrier regulation is no longer justified.

consumers nor would they strengthen competition. For the reasons more fully stated above and by GCI in its Reply Comments dated July 15, 1998, AT&T Alascom supports the Staff's recommendation.

F. THE COSTS OF REVIEWING AT&T ALASCOM'S WHOLESALE TARIFF EVERY THREE YEARS OUTWEIGH THE BENEFITS

The Staff Report recommends that AT&T Alascom's wholesale rates be reviewed in 1999 and every three years thereafter. Staff Report at 20. For the reasons discussed in Section D above, AT&T Alascom opposes this recommendation. As discussed above, less regulation is needed in the wholesale market, not more.

G. THE PROPOSED NEW PUBLIC NOTICE RULES GOVERNING TARIFF CHANGES ARE ANACHRONISTIC

At page 20, the Staff Report recommends a series of new rules regarding tariff filings, which in effect, expand the requirement that tariff filings be publicly noticed for 30 days prior to their going into effect. The proposed regulations include new requirements, 3 AAC 52.390(f)-(i), that the IXC publish public notice of retail and wholesale tariff revisions.

For the reasons discussed in Section J below, these public notice requirements may have been useful during the transition to competition, but no longer are justified today given the competition that exists in the wholesale and retail markets. These rules add costs and hamper competition; they do not promote it.

H. ALASKA FIBER STAR SHOULD BE REGULATED LIKE ANY OTHER IXC

At page 22, the Staff Report recommends that the Commission not provide Alaska Fiber Star ("AFS") with any special treatment from IXC regulation. AT&T Alascom agrees. The

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Telecommunications Act requires competitive neutrality. By definition, it is not competitively neutral to regulate one competitor less than another. There is no reason known to AT&T Alascom that AFS should not be treated equally with all other facilities-based IXCs.

I. GEOGRAPHICAL AVERAGING OF RETAIL RATES CAN CONTINUE TO WORK IN CONJUNCTION WITH CHANGES TO THE COLR RULE AND THE ADOPTION OF A RURAL IXC SUBSIDY

The Staff Report recommends preserving the rule (3 AAC 52.37(a)) requiring the geographical averaging of retail rates. AT&T Alascom agrees with this recommendation for the reasons stated above.

In its Report, the Staff recommends against allowing a price discount conditioned on the customer purchasing both local and toll service as a bundle from the carrier or its affiliate. Staff Report at 23. Staff contends that these discounts: (1) are inconsistent with the geographic rate averaging requirement; (2) place IXCs with no LEC affiliate at a competitive disadvantage in Anchorage; (3) do not provide a net benefit to the public interest statewide; (4) potentially undermine the resale requirement in AS 42.05.860; (5) allow carriers to conceal the effective rates and revenues for their local and toll services; and (6) allow carriers to potentially leverage consumers into purchasing undesired services. AT&T Alascom agrees with Staff to the extent that no discounts should be allowed for any bundle that contains monopoly local exchange service. Such conduct is plainly unfair and should be illegal.

On the other hand, discounted bundles of non-monopoly services are very popular with consumers because of the convenience in choosing one provider for an array of services and the price discounts they can obtain from these packages. For a variety of reasons, some telecommunications

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services that are included in these popular offerings, such as wireless, Internet access, and competitive local exchange service, are not available in every part of the state. The Commission must decide whether the benefits of combining and discounting these services should be denied to consumers in areas where only some of the services may be available. The Staff's inflexible position effectively requires that there must be absolute equality in service to all consumers in the state, which will never be the case.

There are legal and technological differences that affect the services carriers can provide consumers in the different regions. Technological advances in telecommunications services first arrive and are introduced in the populous urban areas, often in Anchorage. Competition tends to get underway first in Anchorage. Inevitably, carriers are able to provide Anchorage consumers with a variety of different and sometimes superior services that cannot yet be provided elsewhere. So long as carriers offer these same services and benefits to similarly situated consumers, there is no violation of any law or Commission regulation. It would be bad public policy for the Commission to restrict the services and benefits provided to consumers based on a rigid uniformity requirement.

The Staff Report contends that the bundling discounts offered to Anchorage consumers are inconsistent with the geographical rate averaging requirement in 3 AAC 52.370(a). Staff's interpretation of the geographic rate averaging requirement is too rigid. By contrast, the FCC interprets the federal geographic rate averaging requirement more flexibly. The FCC allows IXCs to offer certain deaveraged discounted contract tariffs and optional calling plans, provided these offerings

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are made available to similarly situated customers.[10] Likewise, in this instance, the Commission should interpret the state's geographical rate averaging requirement in a flexible manner to allow non-dominant IXCs to provide the benefits of bundling discounts to their customers, provided that such benefits are offered to all who are "similarly situated." If Internet access or wireless service is not yet available in a customer's area, then he or she is not similarly situated.

The state's geographical rate averaging requirement has gone a long way to confer the benefits of urban competition on rural Alaskans. The rule, however, should not be applied inflexibly to deny benefits to urban Alaskans that cannot be offered to rural Alaskans because of legal or technological impediments. If the Commission interprets the state's geographical rate averaging requirement too rigidly, then the quality and variety of telecommunications services available in urban Alaska will only be as good as the services that can be made available to rural Alaska. While such a policy might promote a uniformity of service in the state, it unreasonably limits services to urban Alaskans and stifles innovative marketing and competition.

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[10] *See* Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96-91, FCC 96-331, 11 FCC Rcd. 9564 (August 7, 1996). The FCC determined that consumers would not be harmed by:

> permitting carriers to depart from geographic rate averaging to the extent necessary to offer contract tariffs, Tariff 12 offerings, optional calling plans, temporary promotions, and private line services . . . because: (1) we will continue to require carriers to make these services generally available under our current rules (*e.g.*, contract tariffs and Tariff 12 offerings must be available to similarly situated customers) regardless of their geographic location, and (2) the only "geographically-specific" discounts that carriers may offer are temporary promotions.

Id., ¶ 24.

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With respect to Staff's concern that the bundling discounts place CLECs without IXC affiliates in a competitive disadvantage, AT&T Alascom would point out that this is the nature of the marketplace. Not all carriers are born equal. Some can provide more services to consumers and should be allowed to do so. The marketplace should not be limited by the offerings of the weakest competitor. While the general rule should be to allow the marketplace to operate freely, the exception to this rule is that the Commission must not allow monopoly carriers, like the rural LECs, to leverage their monopoly local service by tying it to other competitive services like long distance service. As indicated above, bundling by a monopolist is unfair and would violate the state and federal antitrust laws. There is no similar evil, however, associated with the bundling of services by non-monopoly providers.

The argument that there is no showing that these bundling discounts provide a net benefit to consumers statewide again ignores the benefits that consumers do receive from these offerings. There is no legal requirement, nor should there be, that carriers must demonstrate some sort of "net benefit" to consumers statewide before providing Anchorage consumers with services that, but for legal, economic, or technological reasons, cannot be provided to other Alaskan consumers. Taken to its extreme, this logic would prohibit deployment of cellular telephone service, for example, until it could be offered in every community in Alaska.

Finally, the Commission should not worry that IXCs might conceal the effective rates and revenues for local and toll services, or otherwise induce consumers to purchase undesired services. The marketplace will adequately protect consumers. If there is a specific instance of abuse by a carrier concealing rates or revenues or otherwise unfairly inducing consumers to purchase undesired services,

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the Commission always has the power to investigate on its own initiative or in response to a complaint. The Commission should rely on its investigative powers to protect consumers and otherwise allow the marketplace to operate freely.

J. A 30-DAY PUBLIC NOTICE OF WHOLESALE AND RETAIL TARIFF FILINGS IS INCONVENIENT, ANTI-COMPETITIVE, AND NOT NEEDED TO PROTECT CONSUMERS

On the federal side, only one day notice is required for tariff revisions. To promote efficiency and encourage free and fair competition, AT&T Alascom recommends the same rule should be consistently applied at the state level for rate reductions or for any changes that do not exceed AT&T Alascom's current rates. For rate increases above current tariffed rates, AT&T Alascom would agree that a 30 or 45-day notice period would be appropriate. The Staff Report, on the other hand, recommends that the Commission preserve the 30-day public notice period before any retail or wholesale tariff changes are allowed to go into effect. Staff Report at 25. The 30-day notice rules are set forth in regulation at 3 AAC 52.370 (retail rates) and 3 AAC 52.375(wholesale rates).

The recommendation to keep the 30 days derives from the Staff Report's conclusion that "[t]he levels of competition in the retail and wholesale markets are [not] sufficient for market forces to replace regulation, . . ." Staff Report at 26. In fact, the exact opposite is true: there is ample competition in both the wholesale and retail markets to allow the Commission to relax its control over the marketplace. AT&T Alascom's discussion and analysis of the wholesale market is set forth in Section D above, and its discussion and analysis of the retail market is set forth in Section L below. The Vasconi and Kargoll Affidavits demonstrate conclusively that AT&T Alascom lacks market power and consumers have choices.

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As AT&T Alascom pointed out in its Initial Comments, consumers *never* contact the Commission during the notice period with comments or questions about tariff changes. Only competing carriers pay attention, often interposing objections to cause delay and gain competitive advantage.

Staff states that a tariff requirement with a 30-day public review period is necessary in order to "maintain and enforce compliance with the geographic rate averaging requirement (retail rates only), fair competitive practices, the prohibition against undue discrimination, the prohibition against retroactive ratemaking, and compliance with any other Commission regulations that may be applicable." Staff Report at 25-26. Staff's views are inconsistent with the FCC's views that tariffing requirements in a competitive environment are not needed to ensure that the rates of non-dominant carriers are just and reasonable and not unreasonably discriminatory.[11] The FCC has determined that tariffing requirements can have negative effects that impair market efficiency and increase costs to consumers.[12]

While the Staff recommends a 30-day public review period of a tariff filing, the FCC allows non-dominant carriers to revise its tariff on one-day's notice.[13]

AT&T Alascom supports a tariff requirement that mirrors the current federal rule; *i.e.*, that IXCs are allowed to revise their tariffs on one-day's notice. Requiring a 30-day public review period

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[11]Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96-61, Second Report and Order, 11 FCC Recd 20730 (1996) (Second Report).

[12]*Id.* at ¶ 53.

[13]47 C.F.R. § 61.23(c).

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for rate revisions that do not exceed current tariffed levels would harm competition by not allowing AT&T Alascom to respond quickly to changes in the marketplace. A further reason for the Alaska rule to be the same as the federal rule is that, in many instances, in-state and interstate offerings are coordinated and offered simultaneously. AT&T Alascom's CustomNet offering is a good example. A different notice period in each jurisdiction is disruptive because it delays coordinated marketing and advertising efforts.

In all competitive markets, carriers must be free to change their rates and offerings in response to competition. After nine years, it is time for the Commission to relax its control of the long distance market and allow competitors to compete in the marketplace. Of course, this does not mean that the Commission cannot investigate a problem when and if one arises. Instead of a 30-day notice requirement, AT&T Alascom recommends that the Commission adopt a one day rule to mirror the federal notice rules for all rate changes, up or down, that do not exceed AT&T Alascom's current tariffed rates.

K. REGULATIONS GOVERNING IXC INTERCONNECTIONS ARE UNNECESSARY

AT&T Alascom disagrees with the Staff Report's recommendation that the Commission develop regulations governing interconnection because "few details exist to explain to the Commission's policy on this matter in relation to the competitive long distance market." Staff Report at 29. Additionally, the Staff Report proposes that these future new rules establish a presumption that the facilities-based IXC allow interconnection at any technically feasible point, and impose a burden on the IXC to show that interconnection is unreasonable. *Id.* And, Staff proposes that the Commission also develop similar interconnection regulations to address interconnection issues between

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IXCs and LECs in the local exchange markets. *Id.* No analysis or support for these recommendations is provided in the Report. AT&T Alascom disagrees that there is a need for new regulations in this area.

Interconnection disputes are exceedingly rare in AT&T Alascom's experience. Moreover, whether they occur at the interexchange or local exchange level, they are fact-sensitive matters that cannot be substantively addressed in a meaningful way in a generic rulemaking docket.

We already have federal rules governing ILEC/CLEC interconnections in the Telecommunications Act of 1996. LEC/IXC interconnections are governed by the AECA tariff and AS 42.05.311 and .321. *See also* Telecommunications Act, § 251. Similarly, the IXC wholesale tariffs and the general interconnection statutes govern interconnections between two IXCs. There is no compelling reason to deviate from the existing complaint procedures that govern disputes before the Commission simply because the dispute concerns interconnection. If any carrier has a complaint about the unwillingness of an IXC to interconnect at a particular point, it can file a complaint with the Commission to obtain redress. The reality is that such disputes rarely occur in the long distance market. The only one AT&T Alascom remembers was a dispute with GCI over interconnection in Juneau, many years ago. It was resolved fairly easily and quickly by the Commission. If another dispute does arise, the Commission can and should follow its normal adjudicatory rules. More regulations are simply unnecessary.

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L. AT&T ALASCOM SHOULD NO LONGER BE DEEMED A DOMINANT CARRIER; THE COLR REGULATIONS SHOULD BE MODIFIED

After nine years of competition, AT&T Alascom's market position has eroded to the point that it no longer has market power and should no longer be regulated as a dominant carrier. Based on stale data and outdated assumptions, the Staff Report recommends not changing the rules that presently regulate AT&T Alascom as a dominant carrier (3 AAC 52.363) and impose COLR responsibilities (3 AAC 52.390(c)) exclusively on it.

With the lifting of the Bush facilities restriction proposed in the Staff Report, the proposed regulations would allow competitors to build facilities anywhere they want to compete in the long distance market, to pick and choose the most profitable segments of the marketplace to serve, but require AT&T Alascom, alone, to serve all areas of the state, including the least desirable and most expensive market segments. While other carriers are permitted to move freely in and out of any market they choose with competitive prices, AT&T Alascom must respond to these competitive price reductions but ***alone*** must offer service in all markets offering the same geographically-averaged competitive (*i.e.*, reduced) rates.

These rules unfairly subject AT&T Alascom to the pressures of statewide competition with virtually no ability to mitigate its losses in the high-cost, low-density rural areas. The Staff Report fails to address how that situation can possibly be competitively neutral. The only justification offered for continuing this discriminatory regulation is one cursory paragraph. Staff Report at 34.

Before explaining at length all of the reasons that it is time to reform the COLR and dominant carrier rules, AT&T Alascom will briefly analyze the Report's deceptively superficial rationale.

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- "Most [competitors] are resellers offering limited services. GCI remains the only competitor in the market with over 5% market share (based on minutes)": Not only does GCI have "over 5% market share," it has over 40 percent statewide on an originating basis and, as of October 1999, approximately 50 percent in the urban areas. Market share is an indication of the power to raise rates. With statewide geographical rate averaging and active competition from GCI, MTA-LD, ATU-LD, and others, AT&T Alascom has zero ability to raise rates.

- "AT&T Alascom's standard retail rates have not changed since 1991": This statement is meaningless. AT&T Alascom has voluntarily made numerous and substantial rate reductions through its optional calling plans, which is where the Commission must look. In 1991, AT&T Alascom's average revenue per minute was 32 cents. Today it is about 23 cents. Average revenue per minute has gone down approximately 30 percent. Calling plans are available to all customers statewide, with in-state residential retail rates as low as 15 cents per minute.

- "AT&T Alascom's wholesale rates have not changed materially since 1991 except for a recent 25% reduction": Why is AT&T Alascom's voluntary 25 percent rate reduction taken for granted and dismissed as "immaterial?" A 25 percent reduction is indeed material, particularly in light of the huge capital investments AT&T Alascom has been making in satellite replacement and earth station upgrades, combined with a 50 percent loss in urban market share since 1990.

Based on its flawed analysis, the Staff Report concludes that AT&T Alascom "remains dominant in the retail and wholesale markets and faces only limited competitive pressure to reduce rates for customers relying on its standard retail rate schedule." Staff Report at 34. Again, this statement is deceptive. No customer has to rely on AT&T Alascom's standard retail rate schedule. Deeply discounted calling plans are available to every retail customer in Alaska. Anyone who has not signed up for one is not paying attention.

As a comparison to the Staff Report's abbreviated discussion, AT&T Alascom recommends that the Commission review the FCC's analysis of the interstate long distance market in its order

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reclassifying AT&T Corp. as a Non-Dominant Carrier.[14] In the Reclassification Order, the FCC found that AT&T Alascom had only a 60 percent market share and held that "the record demonstrates that AT&T lacks market power in the interstate, domestic, interexchange market," and therefore AT&T should "be classified as a non-dominant carrier with respect to that market."[15] In its analysis, the FCC first defined the relevant market to be the interstate, domestic, interexchange market,[16] and then determined that the standard for evaluating AT&T's market power should be whether AT&T lacked the ability to control prices in the overall interstate, domestic, interexchange market.[17] To assess AT&T's market power in the relevant market, the FCC analyzed: (1) AT&T's market share; (2) the supply elasticity of the market; (3) the demand elasticity of AT&T's customers; and (4) AT&T's cost structure, size, and resources.[18]

The FCC's comprehensive and probing analysis of the conditions in the interstate market sharply contrasts with the cursory analysis in Staff's Report to the Commission. In the comments

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[14]*In Re: Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier*, *Order*, 11 FCC Rcd. 3271 (1995) (hereinafter "Reclassification Order").

[15]Reclassification Order, 11 FCC Rcd. 3271, ¶ 1.

[16]*Id.* at ¶ 21.

[17]*Id.* at ¶ 25. The FCC rejected an alternative standard that would have required AT&T to demonstrate that it lacked the ability to control prices for each of its services. In reaching this conclusion, the FCC observed that the vast majority of the interexchange services are subject to substantial competition. Hence, it reasoned that "assessing AT&T's market power by an "all-services" standard (*i.e.*, requiring AT&T to establish that it lacks the ability to control price in all service segments) would result in a situation where the economic cost of regulation outweighs its public benefits." *Id.* at ¶ 26.

[18]*Id.* at ¶ 38.

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below and the attached affidavits of Dr. Kargoll, AT&T Alascom's economist, and Mark Vasconi, AT&T Alascom's Director of Regulatory Affairs, AT&T Alascom provides a more thorough analysis of the current market conditions in the intrastate long distance market in Alaska that examines the factors the FCC typically considers in its market power determinations. Both Dr. Kargoll and Mr. Vasconi explain how and why the market data overwhelmingly prove that AT&T Alascom is unable to exercise monopoly control over prices in the Alaska long distance market, and that the marketplace is competitive.

1. **There is abundant network capacity offered by rival companies that can and will respond to price increases by AT&T Alascom.**

Dr. Kargoll explains that when any firm contemplates an increase in price above competitive levels, it must consider the extent to which rival firms can respond by increasing the availability of their own output. When firms are sufficiently willing and able to meet customer demand in response to an increase in market price by successfully expanding their output, the firm in question faces effective competition. Kargoll Affidavit, ¶ 27.

There are now over 60 certificated IXCs operating in Alaska's long distance market today. While GCI and AT&T Alascom both own facilities throughout the state and compete aggressively with each other, there are also other facilities-based providers offering IXC services. Alaska Fiber Star has installed fiber optic cable between Anchorage and Fairbanks along the Alaska Railroad corridor and provides fiber optic capacity at DS-1 and DS-3 levels to other carriers and very large end users like the University of Alaska and the U. S. Government military bases. KANAS, the new contractor selected to provide telecommunications services to the Alyeska Pipeline Service Company, has installed a fiber optic cable from Valdez to Prudhoe Bay. Alaska Network Services has installed a toll switch in Eagle

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River, and ATU-LD appears to have use of this switch through its LEC affiliate ATU. Some electric utilities now (like Chugach) own and operate telecommunications facilities and offer network capacity. Vasconi Affidavit, ¶¶ 16-23.

The mix of IXCs and, in particular, the facilities-based rivals of AT&T Alascom offer customers a wide range of services across all product lines equivalent to those offered by AT&T Alascom. The facilities-based competitors of AT&T Alascom have abundant network capacity to capture new customers and expand their output. AT&T Alascom currently possesses only a small percent of the total IXC network capacity on the state's major routes. Vasconi Affidavit, ¶ 23. In fact, AT&T Alascom has only ***one-tenth*** of the combined capacity between Anchorage and Fairbanks, and ***one-sixteenth*** of total capacity between Anchorage and Juneau. *Id.* Thus, AT&T Alascom's competitors are fully able to take the additional customers that might become dissatisfied with AT&T Alascom's prices, features, or quality levels. Kargoll Affidavit, ¶¶ 29 and 33.

Additionally, while Staff points out that AT&T Alascom has a facilities monopoly in certain Bush locations, such locations account for less than ten percent of Alaska's access lines. Vasconi Affidavit, ¶ 25. Moreover, because of geographical averaging of retail rates, AT&T Alascom cannot use the market power it may possess in these areas to raise prices above competitive levels. Kargoll Affidavit, ¶ 30.

2. Since 1991, AT&T Alascom's market share has diminished to the point that it no longer has the power to control prices.

When the current regulations were implemented back in 1990, AT&T Alascom controlled almost 100 percent of the in-state long distance market. Today, AT&T Alascom retains only about

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56 percent of the intrastate market statewide based on total access minutes of use ("MOU"), which includes originating and terminating minutes. GCI has a 40 percent share and, due to its strong presence in Anchorage, ATU-LD is up to 2.5 percent statewide. Vasconi Affidavit, ¶ 14. On a purely originating basis, the statewide shares were: AT&T Alascom 49.5 percent, GCI 43.3 percent, and ATU-LD 4.2 percent. Also on an originating basis, AT&T Alascom was down to about 40 percent of the Anchorage, Fairbanks and Juneau market in October 1999. GCI had 49.6 percent, and ATU-LD had 10.4 percent. Vasconi Affidavit, ¶ 11. In Anchorage, with about half of the state's access lines, AT&T Alascom's share of originating minutes dropped to 31.2 percent in December 1999, with GCI enjoying a 54.4 percent share, and ATU-LD 14.3 percent. Vasconi Affidavit, ¶ 9.

Regardless of AT&T Alascom's market share in the statewide market, the market in the urban areas drives statewide retail rates. Statewide retail rates are geographically averaged in accordance with 3 AAC 52.370(a). As a result, the economic forces at work in the urban areas drive retail rates statewide. Through geographic rate averaging, rural consumers benefit from competition in the urban areas and, in essence, receive below-cost service. Therefore, AT&T Alascom's ability to control prices, even in the Bush, depends on its share of Alaska's urban markets. In other words, statewide market share data is largely irrelevant because of rate averaging. If AT&T Alascom cannot raise prices in Anchorage, it cannot raise them in Tuntuntuliak.

In the urban areas of Anchorage, Fairbanks and Juneau, AT&T Alascom's 49 percent share of originating minutes (based on October 1999 data) demonstrates that AT&T Alascom does not exercise "monopoly" power in the long distance market. However, even based on AT&T Alascom's 56 percent share of the total originating *and* terminating access minutes of use statewide, Dr. Kargoll concludes

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that the marketplace is competitive. Kargoll Affidavit, ¶ 31. Dr. Kargoll points out also that AT&T Alascom's share of the total intrastate originating access minutes is even less at 49.5 percent. *Id.*; *see also* Vasconi Affidavit, ¶ 14. On the contrary, the market shares that AT&T Alascom's competitors have been able to garner, particularly in the urban areas, demonstrate that these firms are well-positioned in the market. As the market share data reflect, customers can and regularly do switch carriers in response to rate reductions and other market attractions. Vasconi Affidavit, ¶¶ 6-14.

3. A review of demand characteristics in the long distance market shows that the in-state long distance market is competitive.

Because the MOU growth rate for AT&T Alascom's competitors is ***greater*** than AT&T Alascom's growth rate, these companies have encountered no barriers to entering and expanding the toll market. In fact, their higher growth rate indicates that competitors have been more successful than AT&T Alascom in attracting and maintaining customers. Vasconi Affidavit, ¶ 15.

The distribution of AT&T Alascom's customer demand indicates that there is vigorous competitive rivalry among market players. Because only a small percentage of AT&T Alascom's customers generate a relatively high level of minutes, these customers have a pronounced incentive to switch to other carriers to get a better price and are easily targeted by competitors. Any attempt by AT&T Alascom to raise its prices above competitive levels would make it financially attractive for these large consumers to switch. Kargoll Affidavit, ¶ 35. Nor are large customers the only customers who are able to get lower prices. Because all of AT&T Alascom's services are subject to resale, resellers are able to purchase "large customer" services and pass along some of the large customer discount to small consumers. *Id.*

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This and other competitive forces have resulted in steadily declining prices. For example, AT&T Alascom's average revenue per minute has dropped from approximately $0.32 per MOU in 1990 to approximately $0.23 per MOU at year-end 1998. Vasconi Affidavit, ¶ 13. Importantly, this toll price decrease is greater than the price decline for the access services AT&T Alascom must purchase from Alaska ILECs in order to provide long distance service. While average toll revenues have declined by about nine cents per MOU over the period in question, access prices have declined by only 1.3 cents per MOU. This demonstrates that AT&T Alascom's price reductions, by going well beyond access-generated price reductions, are driven by the need to remain competitive. These toll price reductions, which are over and above access price reductions, also demonstrate that the long distance market is far more competitive than the access or local exchange market. Vasconi Affidavit, ¶ 13; Kargoll Affidavit, ¶ 36.

4. The market data demonstrate that dominant carrier regulation for AT&T Alascom is no longer appropriate.

As the incumbent, AT&T Alascom was designated as the "dominant carrier" by the APUC in 1991 because it was deemed to possess "market power." 3 AAC 52.363(a). Dr. Kargoll's analysis of the market data demonstrates that dominant carrier regulation for AT&T Alascom is no longer appropriate because AT&T Alascom no longer possesses market power. Kargoll Affidavit, ¶ 38. While the dominant carrier regulation adopted for AT&T Alascom in 1991 may have had its place during the transition from a monopoly to a fully competitive market, dominant carrier regulation is no longer necessary nor appropriate given the competitive conditions in the marketplace. *Id.* AT&T Alascom urges the Commission to repeal 3 AAC 52.363 (which compels AT&T Alascom to be the dominant carrier until changed by Commission order) and cease regulating it as a dominant carrier.

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The Telecommunications Act emphasizes the principle of "competitive neutrality." There is nothing neutral about a regulation that singles out one carrier and imposes on it onerous restrictions that do not apply to its competitors. GCI now controls about 50 percent of the market in Fairbanks, Juneau and Anchorage, other carriers have competing transmission facilities with many times the capacity of AT&T Alascom's, and yet only AT&T Alascom must:

- obtain prior Commission approval to increase a rate (3 AAC 52.370(c); 52.375(b));
- serve as the COLR (3 AAC 52.390(c));
- obtain prior Commission approval to discontinue service (3 AAC 52.365);
- comply with 3 AAC 48.275 in setting wholesale rates (3 AAC 52.375);
- comply with the service standards in 3 AAC 52.200-.340 (3 AAC 52.385);
- obtain prior approval of all of its billing and contract forms pursuant to 3 AAC 48.230 (3 AAC 52.390);
- maintain its books in compliance with the Uniform System of Accounts (3 AAC 48.275(g); 48.277); and
- comply with the jurisdictional separations rules (3 AAC 48.430).

Compliance with these multiple requirements imposes costs on the dominant carrier that may be hard to quantify but are no less real. If a competitor does not have to bear them, it frees that competitor to compete more effectively and aggressively. Compliance also imposes delay and inflexibility on the dominant carrier, which ends up resembling a column of British redcoats, marching along, visible to all, burdened with heavy and inappropriate gear. Meanwhile, its more nimble, lightly burdened opponents can move quickly to seize opportunities and train withering fire on the exposed

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column. The dramatic market share figures set forth in the Vasconi Affidavit can be viewed as casualty reports from the battlefield.

5. Imposing COLR obligations exclusively on AT&T Alascom is plainly unfair and anything but "competitively neutral."

AT&T Alascom believes that its commitment and investment as COLR should be recognized and supported by the RCA through favorable consideration of its proposals to create a Bush subsidy and to relax the discriminatory dominant carrier rules that now apply only to AT&T Alascom. Considering the dramatic changes in the market since 1991, imposing COLR responsibilities solely on AT&T Alascom, when other facilities-based carriers can and should share in these responsibilities, is unjustified and discriminatory. As explained previously, while other IXCs can pick and choose markets in which to compete, AT&T Alascom alone is forced to serve every market, regardless of the costs, and must do so with competitively-driven, geographically-averaged retail rates in these high-cost areas. This is a losing proposition imposed only on AT&T Alascom. Without a rural subsidy it cannot continue.

The Staff Report recommends against any change to the COLR rules and instead recommends that the Commission continue imposing COLR responsibilities exclusively on AT&T Alascom. Staff cites three reasons in support of its recommendation: (1) the Commission should not consider changing the COLR rule until AT&T Alascom and GCI resolve the "interoperability problems" between their respective DAMA networks;[19] (2) changing the COLR rule will reduce facilities-based competition;

[19] Staff correctly notes that a customer making a call using GCI's DAMA facilities cannot reach a customer in another village using AT&T Alascom's DAMA facilities without a double satellite hop. Only village-to-village calls are affected. Most data transmissions transit Anchorage, Fairbanks or (continued...)

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and (3) changing the COLR rule would reduce the level of Commission scrutiny regarding abandonment of service. Staff Report at 36. None of the reasons cited by Staff justifies imposing COLR responsibilities exclusively on AT&T Alascom.

Interoperability between the DAMA networks of AT&T Alascom and GCI arises because of facilities-based competition in the Bush. Different carriers deploy different DAMA facilities, which in turn results in the so-called interoperability problem. In fact, the more customers that GCI attracts, the more double-hop calls there will be. Continuing to impose COLR responsibilities exclusively on AT&T Alascom will in no way mitigate or eliminate the problem of interoperability. Wherever facilities-based competition occurs, the problem of interoperability will arise. Thus, the problem of interoperability provides no justification for imposing COLR responsibilities exclusively on AT&T Alascom; it is irrelevant to the COLR issue.

If this issue is nevertheless perceived as an impediment to shared COLR responsibilities, the obligation to serve could be allocated on a cluster or community of interest basis, with one COLR serving a group of villages with high levels of inter-village calling. This would go further toward resolving the double-hop issue, if that is the goal, than forcing AT&T Alascom to serve everywhere and allowing GCI and others to enter and exit at will.

Staff's second reason for continuing the current COLR rule is that any change in the rule could reduce facilities-based competition in the Bush, which contradicts its first point. More facilities-based competition will lead to more double-hop calls. Ignoring the inconsistency, Staff reaches this

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[19](...continued)
Juneau and, therefore, there is no double satellite hop. The call goes from the village earth station to the satellite and directly down to Anchorage, *i.e.*, a single hop.

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conclusion based on AT&T Alascom's comments and Staff's observation that "AT&T Alascom has economic incentive to exit many rural locations and will cede service to GCI given the opportunity." Staff Report at 36. In effect, the Staff's argument is that AT&T Alascom must be forced to remain in a village where GCI also has deployed facilities in order to maintain facilities-based competition. There are several flaws in this logic. First, it may not always make economic sense for facilities-based competition to occur in every rural market. As the Rural IXCs often argue, facilities-based competition in rural Alaska may be uneconomical in some circumstances. Market forces should dictate whether competitors wish to compete in a given market, not regulators. Moreover, the withdrawal of one facilities-based competitor does not mean that competition would cease in a particular market. On the contrary, resellers or other facilities-based competitors can always enter the market. *See* 3 AAC 52.355(b) (retail competition is permitted throughout the state, regardless of the Bush facilities restriction).

If we accept Staff's argument that the COLR rule should remain unchanged in order to ensure facilities-based competition in rural areas, then neither AT&T Alascom nor GCI should be allowed to withdraw from a village where both have facilities, as the withdrawal of either carrier would reduce facilities-based competition. If forcing facilities-based competitors to remain in a particular market makes any sense, it should apply with equal force to both GCI and AT&T Alascom, not just AT&T Alascom. *But see* 3 AAC 52.365 (allowing a non-dominant carrier to discontinue, suspend or abandon service on 30-days' notice).

The Staff Report's recommendation to preserve the COLR rule in order to ensure facilities-based competition contradicts the original intent and purpose for the COLR rule. When the

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COLR rule (3 AAC 52.390) was put in place in 1991, the Commission also promulgated 3 AAC 52.355, prohibiting facilities-based competition in much of the Bush. One important purpose for the COLR rule was to ensure that AT&T Alascom, as the only facilities-based IXC serving the entire state, continued to operate in the areas where .355 applied. With the lifting of the facilities-based Bush restriction, one of the principal rationales for imposing COLR responsibilities exclusively on AT&T Alascom is gone. Other facilities-based IXCs, like GCI, can and should shoulder some of the COLR responsibilities for serving rural Alaska. The COLR rule was never intended to compel AT&T Alascom to continue serving high-cost, low-density areas of the state when other facilities-based IXCs also are serving the same area.

Finally, Staff opposes any change to the COLR rule on the grounds that any change in the rule would reduce the Commission's ability to review a transfer of COLR responsibilities or the abandonment of service. This concern is misplaced. AT&T Alascom has not proposed *carte blanche* authority to withdraw service. AT&T Alascom understands that before it could withdraw service from a particular location, the Commission would have to approve the withdrawal and ensure that a capable facilities-based IXC would remain.

Consistent with its prior comments on this subject, AT&T Alascom once again urges the Commission to adopt rules that provide for an equitable sharing of COLR responsibilities between facilities-based IXCs. Given the dramatic changes in the market and GCI's significant inroads as a facilities-based IXC, continuing to impose COLR responsibilities exclusively on AT&T Alascom is unfair, unjustified, and discriminatory. AT&T Alascom is not going to abandon its massive investments in rural Alaska. No community presently served is at risk of being abandoned. The real issues are

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(1) whether it is time to devise an equitable way to share this responsibility, and (2) whether there is an equitable, competitively-neutral way to support the COLR financially. Any facilities-based carrier serving as COLR in the Bush should receive financial support for its efforts, through the Bush subsidy proposed by AT&T Alascom.

M. THE RULES ALLOWING ALL CARRIERS BUT AT&T ALASCOM THE RIGHT TO WITHDRAW SERVICE UPON 30-DAY NOTICE IS NOT COMPETITIVELY NEUTRAL

On page 34, the Staff Report recommends that the Commission preserve 3 AAC 52.365, which allows all utilities but AT&T Alascom to withdraw service from a community without prior approval from the Commission. For the same reasons that the COLR rule is unfair and should be changed, the regulation set forth in 3 AAC 52.365 likewise should be modified so that AT&T Alascom alone is not required to bear the burdens of COLR responsibilities. *See* discussion in Section L above.

N. COMPULSORY ARBITRATION PROCEDURES ARE UNNECESSARY

The Staff Report recommends that the Commission adopt compulsory dispute resolution procedures. The proposed regulations include a new section, 3 AAC 52.387, to implement compulsory arbitration procedures.

As a first response, the Commission should be aware that interconnection disputes between IXCs are rare to nonexistent. Over the past ten years, AT&T Alascom has had only one significant dispute with another IXC over interconnections, which was resolved without extensive Commission involvement. A second dispute (over the provision of automated message accounting, or AMA, data) was prolonged only because the party requesting the data did not know exactly what it wanted or why.

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While AT&T Alascom agrees in principle that disputes between carriers should be resolved promptly, it is not convinced that compulsory arbitration is the best way to achieve this goal. An outside arbitrator can be very expensive. There is no reason why one of the Commission's hearing officers could not adjudicate a dispute between carriers and provide a recommended decision on the matter to the Commission, just as effectively as would an arbitrator. AT&T Alascom recommends that the Commission not adopt the proposed arbitration procedures at this time and instead take this matter up in Docket R-99-1, where the Commission is developing rules to improve the efficiency of its adjudicatory process, including the use of arbitrators.

O. NEW REGULATIONS GOVERNING INTRASTATE RETAIL PROMOTIONAL OFFERINGS WOULD INHIBIT COMPETITION AND HARM CONSUMERS

The Staff Report recommends on page 38 that the Commission develop regulations to govern intrastate retail promotional offerings. AT&T Alascom opposes this recommendation for reasons similar to those discussed in Section J above, *i.e.*, we do not need greater regulation of the marketplace. AT&T Alascom's position remains constant: the Commission should strive to exercise less regulatory oversight in the marketplace, not more. If the Commission has a concern in a particular instance with a promotion, or there is a consumer complaint about a particular promotion, the Commission can investigate the matter at that time. The Commission should not and need not oversee every promotional offering. The Commission and Staff must resist the impulse to regulate. Consumers today enjoy dramatically more choices, better service, and lower rates than they did in 1990. Greater government involvement will not improve the situation.

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III.

CONCLUSION AND PRAYER FOR RELIEF

For all of the reasons stated above, AT&T Alascom urges the Commission to refrain from creating a web of new regulations. The purpose of this docket is to reform the IXC market structure to (1) reflect the substantial degree of competition that has developed since 1990 when IXC market regulations were last promulgated, and (2) implement the requirements of the Telecommunications Act that state rules should be competitively neutral and subsidy mechanisms should be made explicit. Those goals will not be achieved with more and more regulations, as the Staff Report frequently recommends. Instead, it is time to repeal or relax some of the existing rules, which are now obsolete. For example, the dominant carrier and COLR rules should be relaxed to be more neutral and fair. The facilities restriction should be lifted. An explicit, competitively-neutral Bush IXC subsidy should be developed. The wholesale tariff should be abandoned, and competition through resale of-retail calling plans and inter-carrier agreements should be encouraged.

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By [signature]
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Date: 2-4-00

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